

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NXIVM CORPORATION, formerly known as
EXECUTIVE SUCCESS PROGRAMS, INC. and
FIRST PRINCIPLES, INC.,

Plaintiffs,

v.

THE ROSS INSTITUTE, RICK ROSS a/k/a
"RICKY ROSS", PAUL R. MARTIN, PH.D.,
WELLSPRING RETREAT, INC. and STEPHANIE
FRANCO,

Defendants.

AFFIDAVIT

Civil Action No.:

03-CV-1051

STATE OF NEW YORK)
COUNTY OF ALBANY) ss.:

KEITH RANIERE, being duly sworn, deposes and says:

1. I am the founder of NXIVM Corporation, formerly known as Executive Success Programs, Inc. ("NXIVM"). NXIVM has copyrights that are based on in-depth scientific research that I have developed progressively and cumulatively over a period of 30 years. From its beginnings in 1998, NXIVM has grown from nothing to an international, multi-million dollar-a-year business with over 3,700 customers worldwide.

2. NXIVM does not claim to be a religious organization, nor do I claim to be a spiritual leader of a religious organization. It is incredible to me that they are characterizing us as a cult. NXIVM's purpose is to train individuals on how to increase their potential as humans in all aspects of life.

3. **Copyright Value.** The expression of the work in the copyrights of NXIVM has been drafted in a very meticulous fashion such that words, the order of words, questions and the order of questions used in the copyrights are critical to the success of the organization. Customers

of NXIVM pay up to \$10,000.00 for a 5-day course wherein students will receive training using the copyrighted materials.

4. **Damage and irreparable harm.** Three of the copyrighted materials currently posted on the internet, 12-Point Mission Statement, Work and Value and Face of the Universe, reveal the content and methodologies that are critical to the heart of the entire coursework. Whole passages of these copyrights have been literally copied by defendants. The wholesale copying of the copyrighted materials of NXIVM through posting them on the internet and other means reveals the heart of what is important to the consumer and thus damages NXIVM's ability to, among other things, sell coursework to new consumers. Consumers that read the passages may no longer desire to attend a course wherein the material has been freely given to them. Additionally, if the questions are known ahead of time the entire process is damaged. It is similar to being told the punch line of a joke: the desired affect is irreparably damaged. Our copyrighted questions are designed to be answered without knowledge of the next question. Knowledge of the next question compromises and alters the answer to the current question.

5. **False statement damage as of 8/8/03.** Additionally, a multitude of factually false statements surrounded by logically invalid conclusions are used to disparage and damage us.

Press

We have been called by MSNBC and FORBES who are contemplating running stories based on the false information. There was an additional Times Union article 'Group sues critic over allegations it's a cult' using, republishing and certifying the false information and Rick Ross was interviewed for this article.

Worldwide Web

Additionally, wwm.org (worldwide religious news), about.com and Religionnewsblog.com (published by apologetics index – with direct links to the Ross site) published the false information. Rick Ross posted another article in which he adds another false statement to the growing hysteria. The John Hochman article was updated on 8/9 without removing the numerous damaging factual misstatements.

Mail and email

An information pack has been sent to key people interfacing with our organization containing these false facts and our copyrighted material and I have received messages and a threatening e-mail addressed from a neighbor.

Loss of key people

We have even lost a 4 year veteran Principal Coach – damage that is beyond direct calculation – because of these things. Goldie Hawn cancelled her engagement with us next week because of the false press. A billionaire network founder who had claimed extensive involvement with us has left because of the false reports. Key people have said they feel vulnerable and, knowing the falsehood of the information and knowing Rick Ross's criminal record (published on the internet and defended in his site), fear being attacked similarly. They are scared of being attacked because they support us.

Direct Money Loss

We have sent demands, from two separate attorneys, for Rick Ross and the other defendants cease and desist displaying our material and making false claims. Our demands have gone unheeded and unanswered. As of Friday, 8/15/03 we are losing \$10,000 a day in revenue and the problem is escalating (Unterreiner Aff.)

6. **False statement damage on September 1st.** On September 1st our \$15million NXIVM center needs to be put on the town's agenda. The false information standing without legal resolution could likely result in our project not being on the agenda. This would most likely cost us an extra \$1.5million (Alund Aff.)

7. **Detail on Goldie Hawn canceling her engagement with us for next week.**
MSNBC posted a story about Goldie Hawn performing for a group that's been called a cult. Rick Ross was interviewed and gave yet another false statement. Rick Ross has built a foundation based on false statements and using this foundation he is building a skyscraper (see Appendix A.) Rick Ross has been paid to do this. Unfortunately, Goldie Hawn, based on the Rick Ross statements, website and other negative information, cancelled her engagement with us.

Note: Rick Ross already has a substantial judgment against him so we do not anticipate collecting damages. We believe our only hope is for injunctive relief.

We have tried everything in our power to stop this and have failed.

Background.

8. I have 3 separate Bachelor of Science degrees from Rensselaer Polytechnic Institute (RPI), Troy, NY. The degrees are in Mathematics, Physics and Biology, I also have 2 separate

minors in Philosophy and Psychology. Additionally, I have been a computer analyst/scientist for the past 30 years.

9. I discovered I had an exceptional aptitude for Mathematics and computers when I was 12. It was at the age of 12 I read The Second Foundation by Isaac Asimov and was inspired by the concepts on optimal human communication to start to develop the theory and practice of Rational Inquiry™. This practice involves analyzing and optimizing how the mind handles data. It involves mathematical set theory applied in a computer programmatic fashion to processes such as memory and emotion. It also involves a projective methodology that can be used for optimal communication and decision making.

10. By the time I was 13 I had taken and passed the 9th, 10th and 11th grade NYS Mathematics Regents exams and had taught myself the first two years of college Mathematics and several computer languages.

11. I entered RPI just after my 17th birthday and started to take high level (PhD) graduate courses in Mathematics. These courses are normally reserved for advanced graduate school students. To my knowledge I was the first 17 year old to take advanced 600 level mathematics courses in RPI's then 153 year history. I continued to develop Rational Inquiry™ and formalized a new method of computer programming which I called 'functional programming.' It was my demonstrated ability to optimize computer programs that enabled me to obtain a position as a systems programmer/physicist for the Gamma-Pi physics group at RPI and the MIT-Bates National laboratory (MIT- $\gamma\pi$).

12. MIT- $\gamma\pi$ was examining atomic particle properties using a scattering methodology through a Quadra-pole magnet. I helped devise, construct and utilize the B-field measuring tool for this magnet. Its utilization involved measuring the B-field at millions of points within the magnet array and constructing a 3 dimensional mathematical model of the field. At this time I noted that a

human could often 'see' a data pattern quicker than a computer. So I created a visually driven computer system to allow for 'human intervention' in optimal parameter selection and curve fitting. This successfully reduced our system's search time by over 90%. I thereby refined and tested my model of how the human mind, with sense capability, compared to a computer and how the human mind, equipped with a motivationally driven projective mechanism, 'understood' and strategically made decisions.

13. From 1982 to 1984 I worked as a teacher of computer science and computer programming through Public Management Systems, a state contractor. I created the curriculum, taught classes and interviewed, evaluated, sub-contracted other instructors to teach classes with my curriculum and methodology in Manhattan, Albany, Saratoga and Poughkeepsie. I also worked as an independent computer and business consultant. It was during this time, as a teacher of science, I studied how humans processed problems and learned. I refined my learning and teaching methodology which I embodied into a business plan called 'The Concept School' later changed to 'The Life Learning Institute.'

14. In 1984, Public Management Systems lost their state computer education contract so I obtained a position as a Computer Programmer/Analyst. During this time I intended to find the appropriate instructors, raise the capital and start 'The Concept School.' Over the next 3 years I observed, evaluated and interviewed many potential instructors. I also obtained commitments for almost \$50,000 to start the school. I had several junior partners in this venture and irreconcilable differences relating to business and the integrity of my methodology caused me to abandon this partnership.

15. In 1988, I was accepted into the Mega Society. The requirements to be accepted into the Mega society were to have a demonstrated IQ of 176 or an intellectual performance at the 1 in a million (thus Mega) level of rarity. Because of this event, an article was published 6/26/88 in the

Times Union entitled 'Troy man has a lot on his mind IQ test proves what many suspected: He's one in 10 million.'

16. In 1989, I was accepted into the Guinness Book of World Records under the category 'Highest IQ.' I also left my position as a Computer Programmer/Analyst and resumed business consulting with the intention to raise money to start the 'Life Learning Institute.' At this point in time I became fascinated with how human motivation affected behavior. I started to refine my projective mathematical theory of the human mind to include a motivational behavior equation.

17. I explored what I termed different types of learning: For example, you can't really learn to ski out of a book; you can't replace physical or experiential learning with intellectual learning. Motivation had a strong experiential learning component and I developed tools to teach it.

18. To test my theories and earn money, I became an independent contractor for several marketing and sales organizations. With one organization that had more than 200,000 representatives nationally, I was able to personally recruit and train, using my motivational methodology, 6 of the top 10 producers in a month.

19. During this year I recognized there was an ethical component to my projective model. I discovered the organizations with which I was affiliated had structural problems that led to people working against their ethical foundations. Besides being de-motivating it was, for them, personally destructive. For this reason I terminated my affiliation with these organizations and studied as many marketing, business and sales opportunities as possible (literally hundreds of them.) Unfortunately, I found they all violated the same basic set of ethical principles. I decided to refine these principles into a consistent set of axioms within my human model and create a marketing business based on them. My model of human behavior now had a set of consistent axioms of how human behavior interfaced with the world, ethics.

20. In 1990, I held a meeting with 4 of my friends in my living room to determine the principled structure of a new business. We called this business Consumers' Buyline, Inc. and officially started business on May 1st. This business was based on my projective human model with ethics.

21. We spared no precautions with this business. We immediately hired one of the nation's top attorneys in sales and marketing who had over 20 years of experience in our field. Everything we produced was reviewed and approved by our attorneys, myself and any other relevant party. I created a new concept in marketing, based on my model, called 'Open Marketing' and a systems approach to business which allowed employees to be paid for their production and share in the decisions of the business. We also created an unbiased membership business coalition which became the back-bone of our product. Additionally, I created and implemented a marketing training system based on the motivational principles in the projective model.

22. The model worked and so did the training system. For the next 2 years we grew an average of 40% per month. By the end of our second full year in business we had gross receipts in excess of 33 million dollars and, through our membership business coalition concept, sold an estimated 1 billion dollars of products and services. Additionally, we had almost 300,000 representatives throughout the US, ultimately this number reached almost 400,000.

23. As CEO of this company I learned many things about business, systems theory, applied game theory and human behavior. I incorporated each of these things into the model which had become a body of knowledge. The most important thing I learned was how humans formed the belief system which generated their ethics.

24. I discovered that many of our competitors created indirect fallacies through their materials and marketing. Representatives from these companies became very defensive and angry if you brought these fallacies directly to their attention. This type of 'vested denial' was prevalent in

all areas of human endeavor. In psychology one might term this a type of cognitive-dissonance resolution: a person has an emotional need to justify a decision they have made and thereby do not act rationally. Furthermore, being rational with such a person does not work well. I observed this type of irrational motivation caused people to be unethical. The two questions I addressed: 1. What would it take for such a person to find the basis of their irrationality and be ethical? 2. How can a person be motivated to change unethical behavior without punishment?

25. In Mathematics, all things are proven based on axioms and a step by step systematic construction. Computers work the same way. To program a computer one must first understand the axioms of the computer language, and then the step by step systematic construction of the problem-solution methodology. Finally, one must construct the problem-solution methodology in a step by step fashion using the axioms of the language. I discovered the human mind works the same way and I formalized the process.

26. This process involved treating each word or part in a communication as a mathematical set. As such, the operations of set theory and Boolean logic could be utilized. Each word is seen as both a general objective representation and a highly specific subjective representation. By precisely choosing exact words in precise orders one could communicate in a far deeper and measurable way. And, similar to mathematical proofs, the precise questions and their order are of ultimate importance. In some ways it is similar to saying a person cannot walk before they crawl – the order is essential.

27. My new-found mode of communication, when added to my projective model, allowed a person to understand others on a far deeper level. It enabled a person to find a common understanding with others and to logically build a belief system that matched a person's subjective world – highly individual yet consistent. Using this model people seemed to understand themselves and each other better. They understood their decisions and in so doing often derived a sense of self-

determinism. In short, their motivation was redirected from fear generated to objective generated. Over the next 7 years I would interview hundreds of people before I found the correct person to duplicate and teach my model.

28. In 1991, a paper I wrote was circulated throughout my industry. It utilized axiomatic first principles and a logical proof framework to 'debunk' many of the practices within the industry. We received a tremendous reaction from the paper. Many people came to our company because of it and many people threatened our company also. I received several phone calls from CEO's of other companies that were leaders in the industry threatening an industry-wide retaliation. I was shocked. I had written a factual, logical analysis of the industry and instead of people generating opposing positions, I was threatened.

29. It was late in 1991 when the first political problems occurred. Over the next two years more than 20 states started investigating us and filing civil actions. This was difficult for me to understand for we had taken every precaution to insure we conformed to every law. We even withheld from marketing in Iowa because of an unresolved bonding question.

30. Although we settled every action we could, without admitting any wrongdoing, ultimately we went to court at the State Corporation Commission (SCC) of Virginia in front a tribunal of commissioner judges. The SCC had been investigating us for almost 2 years and had a list of 20,000 potential witnesses to interview. During this time we had spent millions of dollars defending ourselves and lost tens of millions of dollars in business. After calling their witnesses and presenting their case it was dismissed for lack of evidence. We never had to present our defense.

31. Throughout this process I had learned how people can cheat and win. In mathematical game theory cheaters, if undetected, always have the advantage because they have more options. I now added game theoretic strategies to my model. This enabled an ethical honest person to choose the best outcome options against a potentially dishonest opponent. Sadly, I found,

we live in a world that has more than just opinion-based honest conflicts. We live in a world where some people cheat and cheaters have advantages. So as not to lose continuity, please refer to Appendix A of this Affidavit to see the strategy of Rick Ross in this case.

32. Also during this time period I discovered a patentable computer communication device. I founded a company called Global Communications to hold the rights to this product and market it to OEM companies. I gave shares in this company to some of my key employees who helped me on the project but I retained controlling interest.

33. We have been granted 3 patents so far: 5844979 (filed 2/16/95, published 12/1/98), 6061440 (filed 11/30/98, published 5/9/00) and 6373936 (filed 5/9/00, published 4/16/02) titled 'Intelligent switching system for voice and data.'

34. In 1998 I met Nancy Salzman. She was an international authority on human potential. She had trained over 25,000 people in communication methods and she had studied with many of the top people in the world in this field. I determined she was ideal person to learn, duplicate and apply my model.

35. I mentored her for over 6 months on a daily basis before the practical aspects of teaching the model were refined enough to teach generally. In July of 1998, we decided to open an executive training company called 'Executive Success Programs, Inc.' (ESP).

36. The first most fundamental step in creating a company is the precise determination of the guiding principles on which it is built – a mission statement. Everything must be based on and flow from this ethic. For our success school, I felt it was necessary to start with a philosophical statement of what success is (point 1 of the 12 point Mission Statement) then have the rest of the Mission Statement follow from there (See Appendix D for protective procedures).

37. I searched my life experience and wrote the copyrighted 12 point Mission Statement that was the basis of our company, technology and education. When someone signs up for a

program, they sign a confidentiality agreement. The first module they take is 'Rules and Rituals.' Within this module they learn of the 12 point Mission Statement. At that point, if they find any of the premises disagreeable, they can have their money refunded without further obligation except for the terms of the confidentiality agreement.

38. As part of the curriculum, students recite this 12 point Mission Statement before class and reflect upon its contents. The whole curriculum is based on this 12 point Mission Statement and as students learn and experience more, it is our hope they will gain a deeper and deeper understanding of these tenets.

39. For the next several months, we continued to refine the curriculum based on the 12 point Mission Statement: using the model I had discovered, we codified the subject matter into twenty 2 hour modules and refined the wording and order of each question.

40. We also created a Persistency and Motivational State module which contained the psycho-physical motivational portion of my model (the experiential learning of motivation). I had started to develop this in 1989 and had tested it with success through my corporate marketing and sales experiences. This foundational module taught people the experiential learning of motivation. This is one of the copyrighted modules that being given away and disparaged.

41. We started our company with 20 basic copyrighted modules and have now grown to have over 250 modules. Work and Value was and is the foundational module for the whole Ethos and Intensive curriculums. This is another one of the copyrighted modules that is being given away and disparaged.

42. We also recognized the need to be able to duplicate facilitators if our business was to grow. The most distinguishing skills that needed to be learned were the projective aspects of the model. This was so apparent that when we created certification levels for our facilitators (each level is referred to as an 'exploration of meaning' level or EM level), the EM7 level, where the facilitator

was certified on the projective skills, was called a special name 'EMP' (exploration of meaning through projection) and is considered an honor and a separate achievement.

43. To become a facilitator requires earning the right to be a coach, being observed over a period of months, meeting rigorous standards to be promoted and reaffirming the confidentiality of the material. This process can take more than a year. The facilitator is then given access to the facilitator projective training. Our written information for this course is stored off-site, in a single computer, with only 3 people who have access: Myself (the creator of the material), Nancy Salzman (the president of NXIVM corporation) and Loretta Garza (Nancy Salzman's personal assistant). This trade secret, possibly the most valuable trade secret in our company, is being displayed on the internet.

44. Up until this point, ESP, Executive Success Programs and NXIVM corporation have had no bad press. Rick Ross was hired to discredit us and by using a series of false facts has created an avalanche of false bad press. Here are a few of the false statements:

- a. 'Raniere was restricted from starting another multi-level operation for some years' 7/29/03 on his cultnews site. It is also mentioned in other places on the site and is propagating throughout the press.

I have never been restricted from starting an MLM. I have all the rights of any other citizen. The closest thing to this (which, at times, is cited as the source) is a consent decree I signed with the NY Attorney General. Within this we admit no wrong doing and the follow clause exists (I added the bold):

'1. ORDERED and ADJUDGED that the defendants Consumers' Buyline, Inc. Keith Raniere, Pamela Cafritz and Karen Unterreiner are permanently enjoined from promoting, offering or granting participation in a chain distributor scheme in the State of New York in violation of GBL § 359-fff;'


I suspect everyone is permanently enjoined from this.

- b. John Hochman factually misstates, amongst many other things, that 'ongoing participants are required to make a daily brief phone call to check-in'. This is untrue. In one of our 250+ modules called 'persistence' the student may **optionally** learn persistence by checking in with a coach on a daily basis. Hochman's statement in isolation may seem innocent enough, but it supports a paragraph entitled in bold, '**Required daily contact with superiors is framed as personal growth:**' and this paragraph is being used to support that we are a paramilitary structure and is listed under a larger heading '**Mind control and the ESP Intensive**'.
- c. In the same context Hochman says, 'Promotion... cannot occur without approval of one's coach.' This is also untrue. Promotion is based on a committee with the students input. The coach may or may not approve the promotion, it is not the major deciding factor. Hochman is attempting to justify an authoritarian type of monarchical structure compared to a rational democratic type of structure. I am the highest rank in the structure and I have been overridden numerous times and always can be.
- d. Here is the quote, '*Unsubstantiated extravagant claims:* As "proof" of the value of their "technology," the group claims unprecedented results training over 400,000 individuals. Yet their website only comes up with a few dozen testimonials. That's about one testimonial for every 10,000 participants.' Here is the fact: in my biography it states as part of my past credentials, 'Built an organization that started with 5 people in his living room and grew to almost 400,000.' It is true that I trained almost 400,000 people in my past company (Consumers' Buyline.) This is because I created the training program, I made the training videos etc. This has nothing to do with NXIVM. NXIVM Corporation has trained about 3700 people. This untrue statement just serves to discredit us and make us look bad.
- e. '*Self-coronation of leaders:* Participants are instructed to address the founder of ESP as "Vanguard." The manual I reviewed implies he is the source of all the "technology" that the group has, since no one else is mentioned. There appears to be no dissenting views, and his philosophies are often presented in the third person plural "We believe." The ESP website suggests there is now a queen bee of sorts, as a Ms. Salzman, who was a Senior Proctor in this manual, as being upgraded to be the group's sole "Prefect." All of this is soft peddled to participants as analogous to calling your dentist (who finished a universally recognized course of study) by the title "doctor.'" Firstly, Nancy Salzman has never been a Sr. Proctor, she has always had the title of Prefect and she is the president and sole owner of NXIVM corporation. Secondly, saying it is implied I am the source of all the information since no one else is mentioned, is equivalent to saying John Hochman, implied he is the source of all Psychiatry because he is the only source mentioned. Thirdly, we have never used the dentist metaphor, although we do speak of titles and their use.

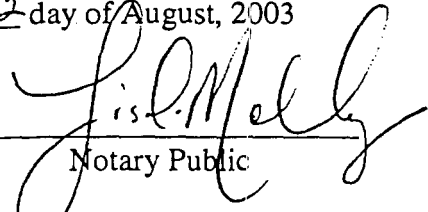
- f. *'Pre-emptive neutralization of criticism of the group by participants and their family/friends early on:* What the group calls "shifter strategies" is given much attention in the Intensive. It is clearly taught that these represent undesirable behaviors that should be met with disapproval by other group members. Then end result is that if a participant criticizes things that the group does, he is a "suppressive." Again, Hochman is attempting to prove we are an authoritarian cult. Firstly, we teach most if not all people have suppressive tendencies – both people who have taken our course and not. It is natural. Secondly, suppression has nothing to do with rational criticism, it is an act of destruction based on hate. Thirdly, we believe it is dishonorable to call someone a 'suppressive.' This paragraph goes against the fabric of conduct in our organization.

These are just a few of the factual misstatements within the site. There are many, many more. Some are as simple as, 'Orange sash is the highest rank' by Paul Martin (this is clearly untrue, we have many higher sash ranks). Or 'the white sash has not to be a suppressive person' by Paul Martin attempting to show we call all non-students suppressive (this is also untrue: anyone who is not a competitor pays their money and gets a white sash.) Some are more complex. All the false statements have one thing in common: they contribute to the building of a false picture to label us a cult and damage us. Even within John Hochman's essay there are more than 20 factual falsehoods and even more logical falsehoods and errors. The Hochman report is based on falsehoods and thereby its conclusion is unsupportable. Rick Ross uses this report, from John Hochman, MD., Psychiatrist and Assistant Professor of Psychiatry and Behavioral science, which was written through Ross's orchestration, as a fundamental building block to perpetuate an ever increasing media frenzy. Additionally, Ross orchestrated the releasing of our copyrighted material through another report by Paul Martin, Ph.D. In this report our material is not only copied, but also

distorted. This false story with our copyrighted material released to the public through international media can never be completely reversed. If this is not in the least stopped it is possible it will destroy us.


Keith Raniere

Sworn to before me this
22 day of August, 2003


Notary Public

LISAA. MOLLOY
Notary Public, State of New York
#01MO6003740
Qualified in Saratoga County
Commission Expires March 9th 2006

Attachments Appendices A-D